

Abstract

The purpose of this thesis is to analyze the legal pre-conditions for parenthood. These are objectively understood as a set of provisions, which give us the answer, who are the legal parents of a child. These provisions are motivated by an effort to harmonize legal parenthood with biological. They are a source of important statutory rights of an individual, which to some extent determine his/her legal status from the very birth. With statutory rights are subsequently firmly bound public legal consequences. These are mainly a relationship between the individual and the state, in particular the obligation to register a child in the state-led civil registration, and also the acquisition of the citizenship.

The relationship of parent and child can be considered as basic and most important personal relationship ever. As a result, various rights and duties arise of this relationship, and therefore the need to regulate such relations by the law has appeared with the evolution of human society, so they were build on a solid basis without being disputed. Every state should thus have the obligation to implement such provisions into its legal order.

This thesis is drafted in accordance with the division of the legal pre-conditions for parenthood to motherhood and fatherhood. A short introductory part deals with the meaning and purpose of the entire legal regulation of the pre-conditions for parenthood.

Subsequently the attention is focused on the legal regulation of motherhood in the Czech legal order. In connection with the regulation of motherhood are then in two subchapters described topics, which have been recently considered as current. The first one is the implementation of the possibility to keep identity of mother in secret after the birth into the Czech legal order, and the second subchapter further focuses on legal regulation of the assisted reproduction, its evolution and methods which are commonly in use.

Furthermore is also given an attention to the right of the individual to know its origin and the connection of this right with the international law. On this subject, I chose one of the decisions of the European Court of Human Rights in Strasbourg, which is more or less in accordance with my opinion on this issue. The last subchapter deals with the maternity disputes, the procedural aspect of the matter.

The third part concerns with the determination of fatherhood. In each subchapter I describe gradually three refutable presumptions, which create the legal basis of the determination of fatherhood in the Czech legal order. A closer look is then also given to the determination of fatherhood with the help of the methods of expert assessment, especially the DNA analysis, which use in practice causes, that the part of a valid legislation dealing with the determination of paternity may now seem as obsolete. Finally, I would point out the subchapter, which deals with the denial of paternity to a child. This subject matter relates also with the role of the supreme public prosecutor in it.

In the conclusion is primarily stated the inadequacy of some aspects related to determination of maternity that is presently valid in our legal order. In the context with it, are also outlined the steps of the legislator, which are frequently considered as very questionable. On the other hand, the regulation of determining a paternity is highlighted, and it usually meets a positive response also in practice. Finally is noted, that many of the imperfections of the current regulation may be eliminated with the re-incorporation of the subject matter of family law into the new civil codex that is now being prepared by the government.